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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

In the Matter of

Advanced Television Systems  
And Their Impact Upon the  
Existing Television Broadcast  
Service

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MM Docket No. 87-268

To: The Commission

**OPPOSITION TO PETITION FOR RECONSIDERATION**

South Florida Public Telecommunications, Inc. (SFPT), through its attorneys, hereby files its opposition to the Petition for Reconsideration (Petition) of the Commission's Sixth Report and Order in the above-referenced proceeding filed on June 13, 1997 by Skinner Broadcasting, Inc. (Skinner). In support thereof, the following is shown:

1. SFPT is the licensee of public television Station WXEL-TV, West Palm Beach, Florida. The Commission has assigned the station DTV Channel 27. SFPT is satisfied with this channel.
2. Skinner claims in essence that the Commission has not protected television low power and translator stations from interference in a manner consistent with the requirements of the Communications Act (Act). Skinner further asserts that these licensees should be entitled to reimbursement for displacements caused by DTV operations and specifically observes that it will be displaced by the digital operations of either Station WXEL-TV or Station WFLX-TV, West Palm Beach. Skinner's Petition is wholly without merit and should be dismissed forthwith.
3. The Commission's rules and policies protect full-service stations, not LPTV and translator stations. Section 74.702(b) provides that:

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Changes in the TV Table of Allotments or Digital Television Table of Allotments (§§73.606(b) and 73.622(a), respectively, of Part 73 of this chapter), authorizations to construct new TV broadcast analog or DTV stations or to change facilities of existing such stations, may be made without regard to existing or proposed low power TV or TV translator stations. Where such a change results in a low power TV or TV translator station causing actual interference to reception of the TV broadcast analog or DTV station, the licensee or permittee of the low power TV or TV translator station shall eliminate the interference or file an application for a change in channel assignment pursuant to §73.3572 of this chapter.

Skinner's station is a primary station. SFPT's station is a secondary station. Skinner was on notice when it filed for its Fort Lauderdale translator that it was building its business as a secondary service. Yet Skinner seeks to solve its problems at SFPT's expense.

4. Throughout the ATV/DTV proceedings the Commission has noted that insufficient spectrum exists to accommodate digital channels for full-service stations and preserve all low power and translator television service. Low power and translator operators have been on a notice from early on in these proceedings that displacement of their facilities might be necessary. In March 1991, the Commission imposed a partial freeze on new low power/translator station applications in major urban markets. The public notice announcing the freeze stated that low power operations would "continue to have secondary status with regard to the introduction of ATV service" and specifically noted "[i]t is possible that some of these secondary stations may be displaced in channel if and when the spectrum is needed by full-service television stations for ATV use." Notice of Limited Low Power Television/Television Translator Filing Window: April 19, 1991 through May 3, 1991, fn 1, released March 12, 1991.

5. Later in the DTV proceedings the Commission confirmed the status of LPTV and translator facilities in the transition by deciding to continue "LPTV and translators' secondary status vis-a-vis ATV stations." Second Report and Order/Further Notice of

Proposed Rule Making, 7 FCC Rcd 3340, 3351 (1992). In that order, the Commission noted that

the low-power television service was established for the specific purpose of supplementing conventional broadcast station coverage and we have always considered low-power stations secondary. The low-power service thus has had ample notice that it would have to yield to any full-service stations, without exception for the specific mode in which the full-service station transmits. Id.

6. In the Sixth Report and Order the Commission expressed concern about the impact of DTV implementation on secondary translator and low power services. However, it decided to maintain their secondary status. Sixth Report and Order, para 142.

7. Regardless of the service provided by such secondary facilities, it must be stressed that the Commission's licensing scheme governing primary and secondary facilities requires that the needs and interests of primary facilities take precedence over their secondary counterparts.<sup>1</sup> The potential displacement of Skinner's translator operation by digital operation of WXEL-TV is no grounds for modification of the DTV Table to allot a different DTV channel to SFPT.<sup>2</sup> Any preference by the Commission for the protection of secondary facilities in the manner sought by Skinner would be wholly inconsistent with the Sixth Report and Order and the historically secondary status of translators. Like all translator and low power television licensees, Skinner was well aware of the secondary status of its facility from its inception and may not now complain that it is being treated unfairly because of a displacement which is necessary to

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<sup>1</sup> For this reason, Skinner's arguments concerning the applicability of Section 307(b) of the Act are entirely inapposite.

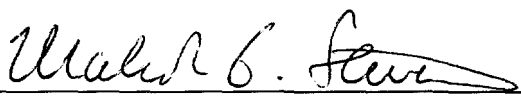
<sup>2</sup> SFPT notes that Skinner did not propose any specific change to SFPT's DTV allotment. SFPT reserves the right to address such a proposal should it subsequently be proffered.

accommodate an area full service licensee. Under all of the circumstances, any change in SFPT's DTV allotment to a less desirable channel or imposition of a reimbursement requirement in order to accommodate Skinner would be unfair, unjustified and contrary to the Communications Act and its attendant rules and policies.

WHEREFORE, for the foregoing reasons, SFPT respectfully urges the Commission to deny Skinner's Petition.

Respectfully submitted,

SOUTH FLORIDA PUBLIC  
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Date: July 18, 1997

## CERTIFICATE OF SERVICE

I, Donna E. Trader, secretary in the law firm of Schwartz, Woods & Miller, do hereby certify that I have on this 18th day of July, 1997, sent by First Class United States mail, postage prepaid, copies of the foregoing **OPPOSITION TO PETITION FOR RECONSIDERATION** to the following:

Christopher D. Imlay, Esq.  
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A handwritten signature in black ink, appearing to be 'D. E. Trader', written over a horizontal line.

Donna E. Trader